UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KATHY N. CLARK,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 4:17-cv-00273
	§	
JAMES E. ALBERTELLI, P.A., *et al.*,	§	
	§	
Defendants.	§	

BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR SANCTIONS PURSUANT TO LR 11.4 TO STRIKE DEFENDANT JAMES E. ALBERTELLI, P.A.'s RULE 11 MOTION PAPERS [35]

On March 20, 2017, Defendant JAMES E. ALBERTELLI, P.A.'s ("Albertelli Law") filed a motion [35] "[p]er . . . Fed. [R.] Civ. P. 11" without serving Plaintiff 21 days before filing it. Fed. R. Civ. P. 11(c)(2) provides, in part, "A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b)." Fed. R. Civ. P. 11(c)(2) further provides, in part, "The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets." Here, Albertelli Law failed to file its Rule 11 motion separately and failed to serve it under Rule 5 upon Plaintiff at least 21 days before filing or presenting it to the court. Thus, Albertelli Law's Rule 11 motion violated Rule 11(c)(2) and may be stricken per LR11.4. Therefore, Plaintiff requests that her motion be granted and said papers [35 *et seq.*] be stricken.

Dated: New York, New York
March 21, 2017

s/ Brian L. Ponder
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon all attorneys of record via ECF.

Respectfully submitted,

Dated: New York, New York
March 21, 2017

s/ Brian L. Ponder
Brian L. Ponder, Esq.